

EXECUTIVE OFFICE, STATE OF TEXAS,

AUSTIN, April 24, 1874.²³

To the Honorable House of Representatives of the State of Texas:

Gentlemen—I return without my approval, and respectfully ask your reconsideration of House bill No. 284, being “An Act to regulate the order of business in district courts of Karnes county.”

This bill provides that all terms of the district court, held in Karnes county, between the first Mondays in May and October, shall be devoted *exclusively* to the transaction of Probate business, and the trial of criminals who may be in jail.

It will be perceived by reference to section six, article five, of the Constitution, that the district court is a court of original and general jurisdiction, that it was created by, and derives its powers from the Constitution. Section five of the same article of the Constitution provides that terms of this court shall be held three times a year in each county in every judicial district in the State, leaving to the Legislature the power to designate the times and places at which they shall be held.

Is it competent for the Legislature to enact that a portion of this general jurisdiction vested in these courts by the Constitution, which they were created to exercise, shall not be exercised at any particular term of terms? It seems to me that this question must be answered in the negative; an affirmative answer would involve a concession to the Legislature of the power to take away from the district courts, jurisdiction granted them by the Constitution, and in effect to destroy this court, because, if the Legislature have the power over a portion of the jurisdiction, they have it over all, and if they can strip them of it and refuse its exercise at one term, they may do the same thing at the other two terms. The power to prescribe general rules regulating the *exercise* of this constitutional jurisdiction by the district courts, undeniably resides in the Legislature; but there is a wide difference between regulating the exercise of jurisdiction and *prohibiting* its exercise, as this bill does of much of the rightful jurisdiction of the district courts of Karnes county, at the terms named. I respectfully submit that the bill is repugnant to the Constitution, and should not be passed.

Very respectfully,
RICHARD COKE.

²³*House Journal*, 533-34.